



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/172085

PRELIMINARY RECITALS

Pursuant to a petition filed February 17, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on March 17, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly denied Petitioner's application for institutional Medicaid because of ownership of assets in excess of Medicaid asset limits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner applied for institutional Medicaid on November 19, 2015. That application sought backdating to October 1, 2015.

3. At the time of application Petitioner was the owner of an individual retirement account with a value of \$23,208.38. Petitioner also had a checking account with a balance of \$939.00.
4. Petitioner's application was denied as assets exceeded Medicaid asset limits.

DISCUSSION

The Medicaid asset limit is \$2000.00. *Medicaid Eligibility Handbook (MEH)*, §39.4.1.

The MEH also details how an IRA is treated for purposes of Medicaid financial eligibility:

...
Individually-owned retirement funds, such as IRAs, Keogh plans, etc., that are owned by the applicant or member should be counted as available non-exempt assets (minus any early withdrawal penalty) for the Medicaid applicant or member. The applicant or member always has access to the principal in these accounts, subject to an early withdrawal penalty.

...
MEH, §16.7.20.

Petitioner was in in-home hospice at the time of the hearing and was represented by her daughter. She noted that Petitioner's home is valued at less than the mortgage and that she owes a nursing home about \$32,000.00. Nonetheless, as to the asset component of financial eligibility, Medicaid eligibility is not based on net worth, just asset value. And here Petitioner had countable assets in excess of the asset limit as of the application and denial involved here.

CONCLUSIONS OF LAW

That the agency correctly denied Petitioner's institutional Medicaid application as Petitioner had assets in excess of the Medicaid asset limit at the time of the application and denial.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 4th day of May, 2016

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on May 4, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability